

**MINUTES  
of the  
FOURTH MEETING  
of the  
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**September 22-24, 2015  
University of New Mexico  
Albuquerque**

The fourth meeting of the Courts, Corrections and Justice Committee was called to order by Representative Zachary J. Cook, co-chair, on September 22, 2015 at 9:13 a.m. at the University of New Mexico (UNM) Continuing Education Building in Albuquerque.

**Present**

Rep. Zachary J. Cook, Co-Chair  
Sen. Richard C. Martinez, Co-Chair (9/24)  
Rep. Eliseo Lee Alcon  
Sen. Joseph Cervantes (9/22, 9/23)  
Rep. Gail Chasey  
Rep. Jim Dines  
Rep. Rick Little (9/22)  
Sen. Linda M. Lopez (9/22, 9/23)  
Rep. Georgene Louis  
Rep. Antonio Maestas  
Sen. Cisco McSorley (9/23, 9/24)  
Rep. William "Bill" R. Rehm

**Advisory Members**

Sen. Jacob R. Candelaria (9/23)  
Sen. Bill B. O'Neill (9/22, 9/23)  
Rep. Patricia Roybal Caballero (9/22, 9/23)  
Rep. Patricio Ruiloba (9/23, 9/24)  
Sen. Mimi Stewart (9/23)

**Absent**

Rep. Andy Nunez  
Sen. Sander Rue  
Sen. Lisa Torracco

Sen. Craig W. Brandt  
Rep. Brian Egolf  
Rep. Doreen Y. Gallegos  
Sen. Daniel A. Ivey-Soto  
Rep. W. Ken Martinez  
Rep. Paul A. Pacheco  
Sen. William H. Payne  
Sen. John Pinto  
Sen. Michael S. Sanchez  
Rep. Christine Trujillo  
Sen. Peter Wirth

**Guest Legislator**

Rep. Alonzo Baldonado (9/22)

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)

Celia A. Ludi, Staff Attorney, LCS

Nancy Martinez, Intern, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Copies of all handouts are in the meeting file.

**Tuesday, September 22****Call to Order**

Representative Cook welcomed members of the committee, staff and guests to the meeting.

**Welcome from UNM School of Law (SOL)**

Alfred D. Mathewson and Sergio Pareja, co-deans, UNMSOL, explained the co-deanship model adopted by the UNMSOL this year, which was pioneered by Case Western Reserve Law School and has since been adopted by other schools. The model acknowledges the complexity of law school administrative and teaching responsibilities, and it allows each co-dean to focus on his or her areas of strength to support the mission of the school. The tenure of law school deans nationwide has been getting progressively shorter, now averaging three years, and it is hoped that the co-deanship model will alleviate the stress of the position and result in longer tenure. In a wide-ranging discussion with committee members, the deans:

- affirmed the UNMSOL's traditional and foundational experiential emphasis, particularly in its various clinical programs, including a new natural resources clinic and a study-abroad program in Madrid, Spain;
- stressed the UNMSOL's continued top-10 ranking for clinical training of public law schools in the country; and
- noted that 80% of the student body are New Mexico residents, and annual tuition is \$15,000 per year, which should allow students to graduate without an enormous debt burden and stay in New Mexico, where salaries are generally lower than in other parts of the country.

## **Introductions**

Committee members and LCS staff members introduced themselves.

### **New Mexico Sentencing Commission (NMSC) Recidivism Studies Overview**

Tony Ortiz, executive director of the NMSC, introduced Linda Freeman, deputy director, NMSC, and staff members Amir Chapel and Kristine Denman. Ms. Freeman, referring to her handout "New Mexico Sentencing Commission Recidivism Studies Overview" at item (6) ("Understanding Recidivism: Definitions and Return to Prison Rates for Individuals Released from New Mexico Prisons FY 2007-FY 2011"), began by explaining that there is no universal definition of "recidivism", and it is therefore measured differently depending on the purpose and perspective of the measurer. The broadest measure of recidivism is arrest subsequent to release; the definitions narrow progressively from there to adjudication, conviction, incarceration and, finally, imprisonment.

### **NMSC Study of Crossroads for Women and Maya's Place**

KC Quirk, executive director, Crossroads for Women (Crossroads), referring to her handout, "Crossroads for Women" at item (1), informed the committee that Crossroads is doubling its numbers and still not meeting the needs of its clientele. Ms. Quirk affirmed that the Crossroads model is more cost-effective than incarceration, and she said that the Corrections Department (NMCD) has asked Crossroads to open a transitional service in Los Lunas. Ms. Freeman observed that arrest and booking is the level of involvement in the justice system where the opportunity to intervene and prevent further progression is greatest, and she noted that most of Crossroads' clients had not been to the NMCD yet.

Ms. Quirk explained that Crossroads is the umbrella organization for Maya's Place and other programs. Another program, "Hope House", has just opened, and "Pavilions" will open soon. Most clients are between the ages of 25 and 45, and most are mothers. In some cases, their children are in someone else's care. All of the programs have a strong component of supporting and reunifying families. Maya's Place does not serve children, but all of the other programs do.

Ms. Freeman reviewed her handout, "Arrest Rates: Maya's Place Clients 2005-2011 and Crossroads Clients 2001-2011" (item (1), Maya's Place).

Answering a committee member's question, Ms. Quirk said that her vision for the future is evidence-based and includes developing processes to identify people who do not have access to the things they need, such as adequate housing, food and medical care, before they offend, and offering resources to help them address those needs, thereby preventing offenses. Crossroads' approach is to identify potential clients earlier and target the necessary resources to help stabilize the clients.

### **NMSC Study of Peanut Butter & Jelly Family Services' (PB&J) Fathers Building Futures (FBF) Program**

Ms. Freeman reviewed the "PB&J Family Services Building Futures Evaluation Timeline" at item (2). Ms. Denman, referring to the reverse of the handout, explained evidence-based programs or practices. Ms. Freeman then introduced Susannah Burke, executive director, PB&J; and Emet Ma'ayan, director of development and strategic initiatives, FBF, PB&J. Ms. Freeman explained that Mr. Ma'ayan works only with the fathers and Ms. Burke works with the families participating in the FBF program. The program focuses on helping fathers to get jobs and to develop interpersonal and parenting skills that support family reunification. Mr. Ma'ayan informed the committee that the program had received a federal grant to start a business employing the fathers for a limited period to provide work experience and training and help in the transition to permanent employment. He reported that the program, now in its fourth year, has served 70 fathers so far, has assisted fathers in establishing regular child support schedules, resulting in the payment of \$50,000 in child support, and that all of the participating fathers are current on their taxes. Mr. Ma'ayan said the program is on track to receive another five-year grant and is working on becoming sustainable on its own. Ms. Burke related that PB&J is moving toward evidence-based programs. Ms. Denman, director, New Mexico Statistical Analysis Center, Institute for Social Research, UNM, made a presentation.

In answer to a question from a committee member, Ms. Freeman replied that PB&J cannot track the impact of the programs on children's school performance, e.g., truancy, because school records are protected by law and are not available for review by outside agencies.

### **NMSC Study of the New Mexico Men's and Women's Recovery Academies (MWRA)**

Ms. Freeman introduced Jessie Wade, probation and parole supervisor, NMCD, and Angela Dannenbring, director, MWRA. Ms. Wade explained that the MWRA works with probation and parole on-site, and participants complete the appropriate academy before starting probation. Ms. Wade reviewed the handout at item (3), "Executive Summary: New Mexico Recovery Academy Evaluation Study". Ms. Dannenbring informed the committee that the men's facility now has 16 beds for dual-diagnosis clients; the women's program has always had dual-diagnosis beds and services.

### **Voices from the Programs**

Several clients of the various programs addressed the committee regarding their experiences in the programs.

Joseph Shaw has been involved in FBF since December 2012, is now employed full time by the program as the workshop supervisor and recently earned his class A commercial driver's license (CDL). He spoke of his pride in taking care of his family and paying bills.

Santana Bayuk is a veteran, father, recovering addict and four-time offender who connected with PB&J while in prison. Mr. Bayuk attended the Men's Recovery Academy and committed to the FBF program on his release. He just earned his class A CDL, has a job as a

truck driver and is current on his child support. He affirmed that if a person is willing to change, the help is there.

LaShell Haynes is a multiple recidivist who completed the Women's Recovery Academy program the second time she enrolled, and she has now been clean almost five years. She said she has gotten some of her life back because she wanted it.

Linda Nastacio graduated from Maya's Place after her release and has transitioned to Crossroads. She said the support she received from the programs has made all the difference, although it is still hard to find a job with her background.

Monique Gabaldon has been on the street since she was 10 years old and is a recovering addict who has been clean for four years. Thanks to Crossroads, she now has a beautiful home and her children back.

Cynthia is a client of Crossroads who learned "how to act in a sober life" and is now hoping to be a firefighter.

### **Approval of Minutes**

The minutes were approved without amendment.

### **DWI and the 24/7 Sobriety Program**

Bill Mickelson, Mickelson Consulting Group, LLC, worked through his handout at item (4), "The South Dakota 24/7 Sobriety Project An Overview". Mr. Mickelson emphasized that the 24/7 Sobriety Program is an evidence-based program that saves more than \$10.00 for every dollar invested. He said the program works because there is a "sure, measured and swift" response to violations; the responses vary depending on the violation. Mr. Mickelson described South Dakota's program and said that federal funds are available for states that want to implement the model; it would not require state funding. The committee discussed with Mr. Mickelson the particulars of the program.

### **Collateral Consequences of Conviction**

Sheila Lewis, a former public defender, worked through her handout at item (5), "Collateral Consequences: A Life Sentence for Families". She explained that collateral consequences of conviction are negative effects of a felony conviction that are not addressed in the statutes prescribing punishment. Collateral effects may include loss of employment, housing and education opportunities, loss of access to public benefits and loss of family connections, as well as loss of voting rights. These effects continue long after a sentence is completed, affecting not just the person with the conviction on the person's record but also the person's family. She urged the committee to support legislation that would mitigate the negative effects of a felony conviction after the sentence had been completed and help reintegrate ex-offenders into communities as productive workers, good family members and engaged citizens. Proposals include:

- having the Motor Vehicle Division issue identification cards to inmates prior to release;
- limiting access to and use of criminal records for non-law-enforcement purposes;
- providing for expungement of certain records;
- redefining a deferred sentence;
- redefining a conditional discharge;
- reclassifying low-level felonies as misdemeanors; and
- expanding "ban the box" to private employers and to affordable housing programs.

Ms. Lewis particularly urged the committee to endorse the Uniform Collateral Consequences of Conviction Act, which to date has only been adopted in its entirety by Vermont. The Uniform Collateral Consequences of Conviction Act addresses the penalties and disqualifications that individuals face incidental to criminal sentencing. A committee member commented that the act had been passed unanimously by both houses of the legislature in 2011, but the governor vetoed it and promised to veto it if it came to her again.

### **Ban the Box**

Senator O'Neill explained that Senate Bill 583 (2015 regular session), co-sponsored by himself and Representative Baldonado, would have expanded an existing law that prohibits public employers from asking about criminal convictions on job applications to apply to private employers. The bill passed the senate and died in the House Judiciary Committee. Senator O'Neill said that there had been opposition to the bill by some small business owners who raised concerns about liability and cost of background checks. Senator O'Neill said that the co-sponsors have been meeting with many of the groups that opposed the bill in its initial form to try to address their concerns in its next iteration. Representative Baldonado added that the best approach to the issue is to enact a separate statute addressing private employers, instead of amending the existing law prohibiting governmental employers from inquiring about an applicant's criminal record on a job application. He emphasized that there is a carve-out for sensitive positions, such as jobs where the employee has substantial contact with children or sick people.

The co-sponsors met in April with the Association of Commerce and Industry and are also in contact with other business groups to explain that employers may ask about previous convictions in an interview but not on a job application. The co-sponsors agreed that they will continue to work on the issue and that instead of amending the existing statute, they think a stand-alone statute that applies to private employers would be more effective. Mr. Shaw expressed support for the bill because many people with records of conviction never get past the application process, making it extremely difficult to find a job and become a contributing member of society.

### **Growing Costs at the NMCD**

Charles Sallee, deputy director for program evaluation, Legislative Finance Committee (LFC), and Theresa Rogers, analyst, LFC, reviewed their handout titled, "Fiscal Overview of

Criminal Justice System". Mr. Saltee suggested that if the legislature is not getting the results it hopes for from the corrections system, it may be because the NMCD is not prioritizing the things that will help, such as evidence-based programs. He mentioned the "Justice Re-Investment Initiative" of the Pew Charitable Trusts as a source of more information. In response to a question by a committee member about the increase in female inmates shown on page 8 of the handout, Mr. Ortiz noted that New Mexico is one of 36 states where the female prison population is growing; in the past four years, the New Mexico female prison population has grown by 20%. Mr. Ortiz said that there are more violent offenses and drug charges. He further informed the committee that it is very difficult to put together an approved parole plan for these inmates because of the lack of services, described earlier, outside of Albuquerque. There was a brief discussion of the appropriate agency in which to locate the Adult Probation and Parole Division of the NMCD, given that the procedures for revocation of parole require oversight by a judge.

### **Public Comment**

Brian Stengel stated that he had recently been released from prison and described the barriers that had prevented him from being able to access educational and rehabilitation services while incarcerated, including punitive responses to minor violations of policy, and alleged that prison personnel are not held accountable for violations of NMCD policies. Mr. Stengel noted that even though all of the facilities in New Mexico have corrections industries, the only facility that has an actual program in operation is in Los Lunas. He opined that if the state used corrections industries effectively, it would not have to outsource everything from uniforms to mattresses, and inmates would gain valuable rehabilitative skills.

Paul Haidle expressed support for the expungement of certain criminal convictions, for "ban the box" and for wider judicial discretion in sentencing. He observed that one in three people in the United States now has some kind of criminal background, from traffic stops to imprisonment, and this has a hugely negative impact on society and the economy.

### **Recess**

The committee recessed at 4:40 p.m.

### **Wednesday, September 23**

The second day of the meeting, a Juvenile Justice Summit, was a joint session with the Legislative Health and Human Services Committee.

### **Thursday, September 24**

Representative Cook reconvened the meeting at 9:52 a.m. and welcomed members of the committee, staff and guests.

### **Presentation on the UNMSOL Southwest Indian Law Clinic (SILC)**

Christine Zuni Cruz, Dickason professor and associate dean of the Indian Law Program at the UNMSOL, explained that the SILC will seek additional funding to expand a clinic program that will operate in tribal communities throughout the state. The program currently works with Native American clients in metropolitan areas and in communities close to Albuquerque, but Professor Zuni Cruz would like to be able to increase the area and the number of clients served by the program. She said that with expanded funding, the students in the program would be able to actively participate in tribal court proceedings, become familiar with tribal laws and codes and assist with the development of tribes' laws. The program seeks to hire a full-time administrator and to include a clinical fellowship position to assist with the clinic's additional work.

EJ John, a third-year law student, told the committee that he participated in the SILC during the summer semester. As a SILC student, Mr. John participated in peacemaking on the Navajo Nation and, using a community-centered approach, helped to settle a dispute. He also worked on educating court volunteers on the federal Indian Child Welfare Act of 1978. He reported that the SILC enriches the educational experience of UNMSOL students.

Erica Valdez, a law student from the Pueblo of Santa Ana, also participated in the SILC during the summer semester. She reported that working in the SILC boosted her confidence and was her favorite law school experience. Her work with the SILC included collaborating with the Pueblo of Nambe tribal court to update the tribe's code. She also worked on a case in Indian country that involved tax and divorce issues. She is currently working with another SILC professor, Barbara Creel, on a project that will involve translation of certain English words into pueblo languages.

Jeremy Martin, another third-year law student, said that he is currently working in the SILC program. Mr. Martin said that prior to his participation in the SILC, and as a non-Native American person, he did not recognize the importance of tribal issues in New Mexico. Working in the SILC has helped him to see that importance and has helped enhance his cultural empathy. His work with a client in the Pueblo of Isleta tribal court has been challenging and a good educational experience.

Professor Zuni Cruz said that she spent a year away from the UNMSOL in Saskatchewan learning about and working in indigenous legal traditions. She is excited to work with the SILC to bring indigenous practices and philosophies into state and other court systems. She said she looks forward to the SILC having the resources to work with all of the tribes in the state to help develop legal solutions using those tribes' own knowledge bases.

In response to a member's question, Professor Zuni Cruz said that the American Indian Law Center (AIRC) is a nonprofit organization that is housed in the UNMSOL. She said that the AIRC, through the Pre-Law Summer Institute (PLSI), helps to prepare indigenous students from the United States for law school. She added that the UNMSOL's clinical program ranks in the top-10 programs in the United States.



A member stated that she participated in the PLSI and SILC and served on the UNMSOL *Tribal Law Journal*. She noted that learning about the complexities of federal Indian law is an important part of law students' education. She emphasized the importance of increased funding to allow SILC students to serve and learn in many tribal communities throughout the state, not just those communities that are near Albuquerque. In response, Professor Zuni Cruz said that most of the tribes in the state are in rural areas and it is important that the UNMSOL prepare lawyers to practice in rural areas of the state.

### **Presentation from the Office of the Attorney General (OAG)**

Attorney General Hector Balderas updated the committee on his office's progress since he became attorney general. He said that the Criminal Affairs Section of the office is divided into four divisions, and realignment of staffing within those divisions is complete. He hopes to have the divisions fully staffed by November 2015.

He noted that the Medicaid Fraud and Elder Abuse Division of the OAG received funding to assist with investigations, and the OAG has contracted with a firm to assist the office with behavioral health-related investigations. The OAG continues to perform unannounced visits to nursing home locations about which the office receives complaints. The division will be expanded to Las Cruces, and the office will seek additional funding. He said that the federal government will provide a 75%/25% funding match and that his office will seek the 25% from the legislature. He asked for the committee's support.

The Special Prosecutions Division's caseload has increased and is pursuing child exploitation cases, among many others. The Special Investigations Division is working with law enforcement agency partners to share information and training related to internet crimes against children. For use in connection with its computer-based investigations, the OAG will seek the legislature's support in acquiring a mobile, digital forensic lab, which will support operations in rural parts of the state.

The attorney general introduced his staff members who accompanied him to the meeting and informed the committee that his office could provide an organizational chart to the committee.

In response to a member's comments about the Cambiar juvenile justice model in the state, the attorney general said that the office is focusing on topics related to the Children, Youth and Families Department, and he said that he would provide the committee with an update focused on those topics.

A member asked about personnel in the OAG who are assigned to work on issues related to open government. The attorney general said that those issues are addressed by the office's Civil Affairs Section, and it includes approximately 20 attorneys and administrative staff. The office has in the past employed a lawyer focused on the Inspection of Public Records Act, but the position is currently not filled. A lawyer in the Civil Affairs Section conducts in-office training

on issues related to open meetings and open records, and the office produces compliance guides and offers training to others in the community, as well.

In response to a question about the attorney general's function as a prosecutor, John Wheeler, chief counsel for the OAG, said that according to statute, an attorney general can choose to prosecute a case for the state in the event that a local district attorney chooses not to prosecute. The member said that the function is important, especially in districts that are unable to handle particular cases.

A member requested that the OAG submit recommendations for revision of criminal statutes, especially those that lead to numerous appeals, such as the child abuse and kidnapping statutes.

### **Problems Concerning the Unit of Prosecution in Child Pornography Cases**

Representative Sarah Maestas Barnes introduced several experts on the issue of units of prosecution in child pornography cases: Andrea Reeb, district attorney for the Ninth Judicial District; Clara Moran, head of the OAG's Special Prosecutions Division; and Anthony Maes, commander of the New Mexico Internet Crimes Against Children Task Force for the OAG.

Representative Maestas Barnes informed the committee that House Bill 440, introduced during the 2015 regular session, aimed to clarify existing law in response to the *New Mexico v. Olsson* and *New Mexico v. Ballard* decisions by the New Mexico Supreme Court. The court's decisions noted that the statute was not clear with respect to the unit of prosecution to be used for the crime of possession of child pornography.

A member expressed concern about the bill passing during a 30-day session, and Representative Maestas Barnes said that she was hopeful and noted that the bill was introduced late in the 2015 60-day session.

In response to a question about the bill's language, which included a reference to "film", Ms. Reeb said that the cases that her office pursues most often involve videos rather than photographs, and, as a practice in that office, one video is charged as one count. The member noted that this charging practice might differ among each of the 13 districts in the state, and the legislature's goal is to avoid ambiguity and aim to for consistency in how criminal statutes are applied.

A member suggested that the bill should provide a second degree felony punishment and include a cap of 30 to 50 years of imprisonment for convicted persons. Those adjustments would help ensure that the punishment for possession of child pornography is not out of proportion to other crimes, such as first degree murder, for which a person may be sentenced to 30 years' imprisonment. Ms. Moran noted that the proposed bill's language, while providing for many counts, allows prosecutorial discretion, and a court can also choose to merge all possession charges.

Another member asked about the "intent" requirement in the statute. Ms. Reeb said that the crime is a general intent crime, so a jury would be given instructions on how to determine whether a person had intent to possess child pornography.

Kim Chavez Cook, a criminal defense attorney, commented that the current statute treats the making of child pornography in the same way as making a digital copy of an image when no child is present. She said that the revision to the statute, which has multiple ambiguities, needs to be comprehensive and should be developed within the context of the entire Criminal Code.

Representative Maestas Barnes thanked the committee for its time and said she would consider the committee's suggestions to ensure that the right solution is developed.

### **Uniform Trust Decanting Act, Rule Against Perpetuities and Uniform Powers of Appointment Act — Combined Legislation**

John W. Anderson, executive vice president, New Mexico Bankers Association, informed the committee that a group of 15 bankers and lawyers has been meeting to discuss trust-related legislation. He provided a copy of a draft bill developed by the group.

Eric Burton, a senior vice president and attorney with Empire Trust, Inc., said that states are ranked on how friendly their policies are toward estates and wealth management, and people shop for jurisdictions with the most favorable estate laws. He said that the rule against perpetuities is an archaic law that needs to be revised and suggested that New Mexico adopt a "365 rule" similar to Nevada's. That rule, reflected in the draft bill language, provides that a trust could hold real property for no longer than 365 years. He opined that if New Mexico adopted such a rule, wealth management business in the state could increase.

Jack Burton, a uniform law commissioner, said that the state's Uniform Probate Code and Uniform Trust Code are in need of revision. One change he proposed would be to allow for longer trust terms.

In response to a question about a chart provided to the committee titled, "3<sup>rd</sup> Annual Dynasty Trust State Rankings Chart", Eric Burton explained that the legislature for the top-ranked state, South Dakota, worked with the state's bar association and with banks to develop favorable wealth management policies, including elimination of the rule against perpetuities.

A member asked whether the changes in the draft bill will have any positive economic effects on the state, and Eric Burton said that in addition to increased wealth management business in the state, as the state's banking institutions begin to manage more assets, those institutions will be better positioned to make loans and finance capital improvements.

Jack Burton said that he spoke with Steve Oshins, the person who compiles information and prepares the state rankings chart, and Mr. Oshins said that New Mexico is not in a position to

be ranked in the top-10-friendliest states for wealth management unless the state revises its rule against perpetuities.

### **Curfew**

Representative Nate Gentry provided the committee with a draft bill relating to curfews and informed the committee that, previously, the New Mexico Supreme Court struck down an Albuquerque curfew ordinance. The court stated that it is impermissible for an ordinance to impose a criminal penalty on minors for conduct that is lawful for adults. Representative Gentry's draft bill does not impose statewide curfews, but it allows local governments to impose curfews with a few restrictions.

In response to a question, Representative Gentry said that there is no criminal penalty provided for in the draft bill, and local governments would provide for any curfew-related penalties if those governments chose to enact a curfew law.

Another member asked whether the draft bill is the same bill proposed in previous years by former Representative Dennis Kintigh. Representative Gentry said that the draft bill is similar to the previous bill, except that the draft bill is less prescriptive and does not include sanctions.

A member expressed concern about language in the draft bill that addresses resources to be used in the event that a minor is taken into custody for violating a curfew and emphasized the limitations of the understaffed and overworked Children, Youth and Families Department.

Another member offered his assistance with the draft bill and noted that juvenile crime in Albuquerque has dropped by 64%, and when violent juvenile crime is committed, it is often related to runaway minors who are not enrolled in school.

### **Global Positioning System (GPS) Monitoring and Orders of Protection**

Representative Carl Trujillo and Crystal Sanchez, a constituent, presented a draft bill related to orders of protection. Representative Trujillo said that the bill would add two new sections to the Family Violence Protection Act. The bill language would provide for the use of GPS technology to establish and monitor geographic exclusion zones into which a restrained party could not enter. He said that this system could be a deterrent for restrained parties and could help victims feel and remain safe. He emphasized that he and Ms. Sanchez are interested in input and suggestions from the committee about the bill.

Ms. Sanchez related some statistics about domestic violence and said that, frequently, a woman who is murdered in this state was a victim of domestic violence perpetrated by the person who murdered her.

A member asked why the monitoring system is necessary, and Ms. Sanchez said that the system would provide an updated location for a restrained party every five seconds and would

alert a protected party if the restrained party entered an exclusion zone. The system would provide safety and peace of mind for protected parties.

### **Memorial Concerning Family Law and Custody Issues**

Representative Javier Martinez presented a draft memorial requesting that an interim committee study issues related to parental rights. He said that he would like the legislature to look at how child custody and related laws are affecting families. He suggested that the legislature could consider issues, including whether joint custody is always in a child's best interest and the enforcement of parenting plans.

A member noted that if a parent violates a parenting plan, that person is in contempt of court and the other parent can ask the court to help with enforcement of the plan.

Another member noted that this issue could be addressed in the upcoming fiscally focused legislative session through the appropriation of sufficient resources for the courts.

### **Public Comment**

Connie Vigil explained that her child was taken from the state in violation of a court order and that parental rights need to be strengthened.

Adrian Carver expressed opposition to the proposed bill that would allow local governments to enact curfews. He noted that law enforcement resources are already strained and suggested that efforts be focused on: prevention and intervention for youths; early childhood education; youth employment opportunities; and culturally relevant activities for youths, rather than on curfews.

Emma Sandoval said that she has been working in youth development for 10 years and she has witnessed the negative effect punitive policies have on youths. She suggested investment in proactive solutions and listening to the input of young people.

Steve Allen, a representative of the American Civil Liberties Union of New Mexico, expressed his agreement with previous public comments about the curfew bill. He noted that the Albuquerque Police Department is bound by a consent decree because of documented use of excessive force, and he opined that enacting curfews in this environment and increasing interactions with law enforcement are not advisable.

Sophia Young informed the committee that she is a seventh grade student and native New Mexican. She has a friend who was in need of assistance from law enforcement but was afraid to call for help. She said that youths in Albuquerque have concerns with trusting law enforcement, and criminalizing behavior will not help.

Grace Spulak, staff attorney with Pegasus Legal Services for Children, said that curfews could be problematic for her clients, some of whom do not have parents and are in the custody of

the Children, Youth and Families Department. She added that while the legislation may be well-intended, it fails to address the actual issues involved with certain juvenile behaviors.

Alyssa Lopez said that enacting curfews will criminalize more youths and that time and money should instead be spent on programs that benefit youths. She also noted that there are concerns with youths who have been emancipated.

Sulema Maraza expressed opposition to curfew laws and noted that the laws will place hardships on families.

Hope Alvarado said that many school-related events and clubs take place in the evening and end after 10:00 p.m. and that a curfew could discourage participation. She said that youths in New Mexico are already facing many obstacles, and curfews would be another.

Margarita Sanchez said that curfews will cause more harm than good. She added that many young people work late hours, and curfews will unnecessarily increase policing of the state's young people.

Rosie Garibaldi said that she works with young people who are directly and indirectly affected by the juvenile justice system. She recalled the previous day's Juvenile Justice Summit, which was focused, in part, on hearing young peoples' voices. Curfews, she said, are reactionary policies that can have unintended consequences. She noted that juvenile crime rates have decreased, law enforcement resources are overextended and youth shelters are over-capacity. Even though the bill does not implement curfews, it allows for curfews, and there is evidence that curfews do not deter crime.

### **Adjournment**

There being no further business before the committee, the fourth meeting of the Courts, Corrections and Justice Committee for the 2015 interim adjourned at 3:25 p.m.